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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,591	05/03/2005	Michael Dovrat	12033-2	6244

42188 7590 04/02/2007

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EXAMINER	
CHIU, RALEIGH W	
ART UNIT	PAPER NUMBER
3711	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/533,591	DOVRAT ET AL.	
	Examiner	Art Unit	
	Raleigh Chiu	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *30-62* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *58-62* is/are allowed.

6)☒ Claim(s) *30-51 53-57* is/are rejected.

7)☒ Claim(s) *52* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 May 2005* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *01/12/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the combination of the frame with the two gates (claims 30 and 58) and the basketball hoop and dart game table (claim 52) must be shown or the features canceled from the claims. No new matter should be entered.

Further, according to 37 CFR 1.83, the drawings must show all features. As the claims specify method steps (claims 58-62) the process steps must be shown; method steps may be illustrated by an appropriate flow chart or a series of pictures showing the steps in sequence.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures

must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 40-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 40-42 depend from themselves. For the purposes of applying the prior art, it is assumed that they depend from claims 39, 40 and 41, respectively.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 30-36, 43, 45, 46, 48-51 and 53-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,018,746 (Cardoza, Jr. *et al.*, hereinafter Cardoza) in view of U.S. Patent Number 3,980,299 (Brown).

Regarding claims 30-32, 35, 36, 43, 46, 48-51, 53 and 54, Figure 1 of Cardoza shows the recited frame 10 through which a ball may pass. Cardoza shows marking elements 14 to delimit the game boundaries. It would have been obvious to one of ordinary skill in the art to provide gates at the end of the Cardoza playing area in view of Brown to prevent players from traveling too far to retrieve stray balls.

Regarding claim 33, the Cardoza game is considered to be adjustable. See column 6, lines 20-22.

Regarding claim 34, the Brown gates are adjustable to the extent that the distance between rods 46 can be adjusted. See Figure 1. The recitation of changing the desired degree of game difficulty is considered to be a rule of playing the game; rules do not serve to distinguish the recited apparatus from that disclosed by the reference and have no limiting effect in an apparatus claim.

Regarding claim 35, determining the distance is considered to be a rule of playing the game; rules do not serve to

distinguish the recited apparatus from that disclosed by the reference and have no limiting effect in an apparatus claim.

Regarding claims 55-57, as similarly set forth above, rules do not serve to distinguish the recited apparatus from that disclosed by the reference and have no limiting effect in an apparatus claim.

Regarding claim 45, it is old and well-known in the sporting game art to provide lighting in order to allow players to continue playing in low-light conditions.

7. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cardoza and Brown as applied above in view of U.S. Patent Number 4,880,243 (Raub).

Although Cardoza delimits his boundary area with markers 14, Raub shows that it is old and well known in the sporting game art to use cords and pegs for exactly the same purpose. See Figure 5 of Raub. As such, it would have been obvious to one of ordinary skill in the art to substitute the Raub cord-and-peg boundaries for the one shown by Cardoza as modified above to allow a player to definitively realize the exact boundaries of the game.

8. Claims 30, 34, 35, 37-40 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number

5,058,899 (Jackson *et al.*, hereinafter Jackson) in view of U.S. Patent Number 3,980,299 (Brown).

Regarding claims 30 and 37-39, Figure 1 of Jackson shows a framed rectangular net with an opening therein. It would have been obvious to one of ordinary skill in the art to provide gates at the end of the Jackson playing area in view of Brown to prevent players from traveling too far to retrieve stray balls.

Regarding claim 34, the Brown gates are adjustable to the extent that the distance between rods 46 can be adjusted. See Figure 1. The recitation of changing the desired degree of game difficulty is considered to be a rule of playing the game; rules do not serve to distinguish the recited apparatus from that disclosed by the reference and have no limiting effect in an apparatus claim.

Regarding claim 35, determining the distance is considered to be a rule of playing the game; rules do not serve to distinguish the recited apparatus from that disclosed by the reference and have no limiting effect in an apparatus claim.

Regarding claim 40, it would have been obvious to one of ordinary skill in the art to adjust the size of the Jackson opening in order to adjust the difficulty of the game. It is old and well-known in the sporting game art to adjust game difficulty by changing target size.

Regarding claim 47, Figure 1 of Jackson shows that it is old and well-known in the art to fix outdoor game elements into the ground in lieu of a base; one of ordinary skill in the gaming art would realize that tapered ends would facilitate entry into the ground.

Allowable Subject Matter

9. Claims 41 and 42 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claim 52 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 58-62 are allowed.

Conclusion

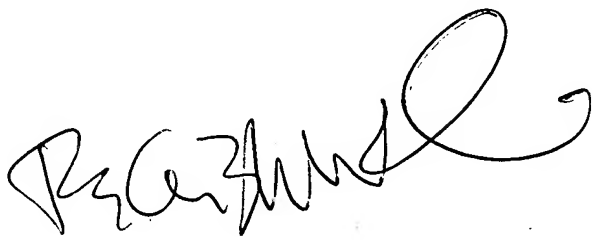
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim, can be reached on (571) 272-4463.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raleigh W. Chiu
Primary Examiner
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RWC:dei:feif
19 March 2007